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**Subject:** FYI: Environmentalists Sue EPA Over Washington State Water Quality Criteria

FYI —

## Water Policy Report - 03/06/2017

### Environmentalists Sue EPA Over Washington State Water Quality Criteria

March 03, 2017

Environmentalists are suing EPA over its failure to respond to their long-standing petition claiming Washington's water rules aimed at protecting aquatic life from toxic substances are inadequate and almost 20 years out of date, hoping to win a deadline for the agency to disapprove the state's policies and trigger a statutory requirement for enacting federal limits.

Northwest Environmental Advocates (NWEA) filed a Feb. 21 complaint in the U.S. District Court for the Western District of Washington saying EPA has unreasonably delayed a response to the advocates' 2013 petition seeking an update to the Evergreen State's Clean Water Act (CWA) water quality criteria. *The complaint is available on InsideEPA.com. (Doc. ID: 199410)*

"Washington's water quality criteria intended to protect aquatic life and human health, and the data that the state relies upon to establish those criteria, are outdated and inadequate. Washington has not adopted new or revised aquatic life criteria for many toxic pollutants for at least 19 years and many of these state criteria are significantly less protective than EPA's recommended criteria for these pollutants," the complaint says.

Under section 303(C)(4)(b) of the CWA, when EPA finds that a state's water policies are inadequate to meet the law's goals it must enact a more stringent standard within 60 days. NWEA is arguing that EPA and state officials "have known for years" that Washington's current limits on toxic substances fail to satisfy the water law and must be updated, in part because EPA has published multiple rounds of guidance for crafting aquatic-life criteria that call for more stringent limits.

If EPA invokes section 303(C), it would put new pressure on other states to update their water quality criteria after the agency issues new recommended limits — but could also spur a legal challenge from the state or industry groups that will be subject to stricter discharge limits under a more stringent set of aquatic-life rules.

The complaint continues that even though Washington recently updated its toxics criteria aimed at protecting human health, "the updating of Washington's toxic criteria for human health does not relieve the ongoing risk to aquatic species because for many toxic

pollutants EPA's nationally recommended aquatic life criteria are far more stringent than the human health criterion."

Further, NWEA says the updated human health criteria did not address arsenic, dioxin and thallium, meaning they "remain woefully out of date."

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